

ESTTA Tracking number: **ESTTA734299**

Filing date: **03/17/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	DNA Vineyards		
Entity	Partnership	Citizenship	California
Composed Of:	Dennis Robert Patton, US Citizen, Andrea Beth Silverstein, US Citizen		
Address	2849 Laguna Road Santa Rosa, CA 95401 UNITED STATES		

Attorney information	J. Scott Gerien; Corinna Charlton Dickenson Peatman & Fogarty 1455 First St., Ste. 301 Napa, CA 94559 UNITED STATES tmltg@dpf-law.com Phone:7072527122
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Registration Subject to Cancellation

Registration No	4622875	Registration date	10/21/2014
International Registration No.	NONE	International Registration Date	NONE
Registrant	BODEGAS MURVIEDRO, S.A. Ampliaci3n - P.I. E-46340 REQUENA (Valencia), SPAIN		

Goods/Services Subject to Cancellation

Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: wines excluding wines consisting primarily of water with wines

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	DNA VINEYARDS		
Goods/Services	wine		

Attachments	Petition for Cancellation - DNA DE MURVIEDRO.pdf(346706 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

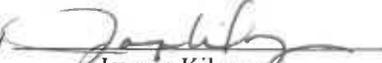
Signature	/Jaymie Kilgore/
Name	Jaymie Kilgore
Date	03/17/2016

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Certificate of Electronic Filing

I hereby certify that this correspondence is being electronically filed with the Trademark Trial and Appeal Board through the ESTTA system located at <<http://esta.uspto.gov>>.

Dated: 3/17/16

By 
Jaymie Kilgore

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

DNA Vineyards,
Petitioner,
vs.
Bodegas Murviedro, S.A,
Registrant.

CANCELLATION NO.
PETITION FOR CANCELLATION

TO THE COMMISSIONER OF TRADEMARKS:

DNA Vineyards, a California partnership composed of Dennis Robert Patton and Andrea Beth Silverstein, located at 2849 Laguna Road, Santa Rosa, California (“Petitioner”), believes it is being and will continue to be damaged by registration of the mark DNA DE MURVIEDRO for “Wines excluding wines consisting primarily of water with wines” in Class 33, which is subject of U.S. Trademark Registration No. 4,622,875 (hereinafter “DNA DE MURVIEDRO Registration”), owned by Bodegas Murviedro, S.A. (Spain Sociedad Anónima) located at Ampliación – P.I. El Romeral, S/N E-46340 Requena (Valencia), Spain (“Registrant”), and hereby petitions to cancel said registration.

Solely for the purpose of this proceeding, Petitioner alleges the following as grounds for cancellation:

1 1. Petitioner seeks to register the mark DNA VINEYARDS as a trademark for
2 “alcoholic beverages except beers” in Class 33 based on its intent to use the mark in commerce.
3 Petitioner’s application for DNA VINEYARDS, shown in Application Serial No. 86-269320
4 (“Petitioner’s Application”), was filed with the United States Patent and Trademark Office on
5 May 2, 2014.

6 2. Petitioner is likely to be damaged by continued registration of Registrant’s DNA
7 DE MURVIEDRO Registration, *inter alia*, because, there is a likelihood of confusion between
8 Petitioner’s applied-for mark DNA VINEYARDS and the mark shown in Registrant’s DNA DE
9 MURVIEDRO Registration, which resulted in the denial of Petitioner’s application for
10 registration of DNA VINEYARDS on September 18, 2015 based on Trademark Act Section 2(d),
11 which bars registration of an applied-for mark that so resembles a registered mark that it is likely
12 a potential consumer would be confused, mistaken, or deceived as to the source of the goods
13 and/or services of the applicant and registrant.

14 3. Petitioner first used the DNA VINEYARDS name and mark in commerce in
15 association with wine on or about February 27, 2006. Registrant’s effective filing date of the
16 DNA DE MURVIEDRO mark for the goods identified in the DNA DE MURVIEDRO
17 Registration is November 13, 2012, over six and a half years after Petitioner first used the DNA
18 VINEYARDS name and mark. Petitioner’s first use in commerce date of the DNA
19 VINEYARDS name and mark in association with wine precedes the filing date of the DNA DE
20 MURVIEDRO Registration, and Petitioner has continuously used the DNA VINEYARDS name
21 and mark in association with wine since such time.

22 4. Registrant’s DNA DE MURVIEDRO mark is likely to cause confusion, mistake or
23 to deceive the public as it is extremely similar to Petitioner’s DNA VINEYARDS mark for wine,
24 and is used on related goods. Accordingly, Registrant’s DNA DE MURVIEDRO mark for wines,
25 excluding wines consisting primarily of water with wines, is not entitled to continue to be
26 registered in accordance with Lanham Act § 2, 15 U.S.C. §1052(d).

27 5. Continued registration of the mark shown in the DNA DE MURVIEDRO
28 Registration will result in damage to Petitioner pursuant to the allegations set forth above, and

1 will create a cloud on the lawful right of Petitioner to use the mark DNA VINEYARDS for wine
2 and will prevent Petitioner from obtaining federal registration of the mark in the name of
3 Petitioner.

4 6. Accordingly, Registrant's DNA DE MURVIEDRO Registration should be
5 cancelled in accordance with Lanham Act §14, 15 U.S.C. § 1064.

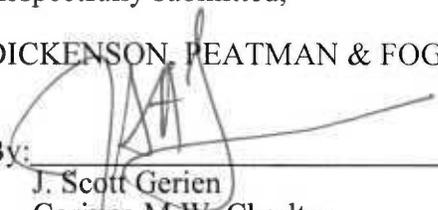
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7 WHEREFORE, Petitioner prays as follows:

- 8 1. That this petition be sustained; and
9 2. That registration of the trademark DNA DE MURVIEDRO shown and specified in
10 U.S. Trademark Registration No. 4,622,875 be cancelled.

11
12 Please charge Petitioner's counsel's Deposit Account #503564 the \$300 filing fee for the
13 Petition for Cancellation, and any other fees which may be necessary to effect the filing of this
14 petition.

15
16
17 Dated: 3/17/16

18 Respectfully submitted,
19 DICKENSON, PEATMAN & FOGARTY

20 By: 
21 J. Scott Gerien
22 Corinna M.W. Charlton

23 1455 First Street, Ste. 301
24 Napa, California 94559
25 Telephone: (707) 252-7122
26 Facsimile: (707) 255-6876

27 Attorneys for Petitioner,
28 DNA Vineyards

PROOF OF SERVICE

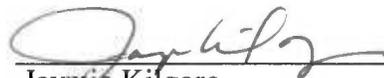
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2 I declare that I am over the age of 18 years, employed in the County of Napa, and not a
3 party to the within action; my business address is 1455 First Street, Suite 301, Napa, California
4 94559. On March 17, 2016, I served the attached **PETITION FOR CANCELLATION** on the
5 person(s) listed below:
6

7 Bodegas Murviedro, S.A.
8 Ampliacion – P.I.
9 El Romeral, s/n E-46340
10 Requena (Valencia) Spain

11 by enclosing a true copy in a sealed envelope addressed as shown below and placing the envelope
12 for collection and mailing following our ordinary business practices. I am readily familiar with
13 this business' practice for collecting and processing correspondence for mailing. On the same
14 day that correspondence is placed for collection and mailing, it is deposited in the ordinary course
15 of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct.
18

19 Executed March 17, 2016, at Napa, California.
20

21 
22 Jaymie Kilgore,
23 Legal Secretary
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